

Appl No. 09/744,838
Amdt. Dated July 21, 2003
Reply to Office Action of February 19, 2003
CM1871M
Customer No. 27752

Remarks

Claims 1-29 are pending in the present application. No additional claims fee is due.

Response to the Office Action

The Rejection under 35 U.S.C. 103(a) over Brock et al.

Claims 1-29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Brock et al (WO 94/08557 – hereinafter, "Brock"). Applicants respectfully traverse this rejection, as the Brock reference does not establish a *prima facie* case of obviousness. Specifically, Brock does not teach or suggest all of Applicants' claim limitations, as required under MPEP 2143.03. Brock does not teach or suggest a hair care product comprising both ethanol and water, having at least 40% of spray droplets with a particle size of at least 100 microns. Therefore, a *prima facie* case of obviousness has not been established.

The present invention teaches a hair care product comprising a hair shine agent consisting essentially of a mixture of a nonvolatile polysiloxane fluid having a refractive index of at least 1.46, and a nonvolatile spreading agent intermixed with the polysiloxane fluid; ethanol; and water, wherein when the product is a spray product, it produces a spray having at least 40% of spray droplets with a particle size of at least 100 microns. Brock does not teach or suggest a spray product comprising both ethanol and water, having at least 40% of spray droplets with a particle size of at least 100 microns as required by Applicants' claim 1.

Typically, using ethanol in high levels in order to maximize refreshment and clean hair feel causes the scalp to be dried out, leading to the skin feeling itchy or flaking. Applicants have surprisingly discovered that the hair shine agent of the present invention, comprising both water and ethanol, improves clean hair feel, increases scalp refreshment, and reduces scalp drying. Further, the present invention requires that at least 40% of spray droplets have a particle size of at least 100 microns. Applicants have found that smaller spray particles do not sufficiently penetrate throughout the entire depth of the hair and consequently suffer from insufficient distribution in order for the composition to provide the desired levels of performance. Applicants have unexpectedly discovered that the hair shine agent of the present invention comprising both water and ethanol, in the form of a spray product with larger particle size, enhances shine, improves clean hair feel, increases scalp refreshment, and reduces scalp drying.

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Brock does not teach or suggest a hair care product comprising both water and ethanol, wherein the spray product form has at least 40% of spray droplets with a particle size of at least 100 microns, as required by Applicants' claim 1. Thus, a *prima facie* case of obviousness does not exist, as Brock fails to teach or suggest all of Applicants' claim limitations.

Conclusion

Applicants have made an earnest effort to distinguish the invention as now claimed from the applied references. WHEREFORE, Applicants respectfully request reconsideration of this application and allowance of Claims 1-29.

Respectfully submitted,
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